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Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by the International Youth and Student Movement for the United Nations, a non-governmental organization in general consultative status; BADIL Resource Center for Palestinian Residency and Refugee Rights, Habitat International Coalition, the Union of Arab Jurists, non-governmental organizations in special consultative status; Mouvement contre le racisme et pour l'amitié entre les peuples, non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Ongoing forced displacement and dispossession of the Palestinian people*

BADIL Resource Center, on behalf of 15 Palestinian and international human rights organisations, would like to address the pressing issue of ongoing forced displacement and dispossession of the Palestinian people.

Israel defines itself as a Jewish state and conditions its existence upon the maintenance of a Jewish majority. Indeed, the Zionist movement that established Israel in 1948 combined Jewish nationalism with the colonial practice of transplanting people, mostly from Europe, into Palestine with the support of European colonial powers. For the past 66 years, Israel has continued its practice of settler implantation and the removal of indigenous Palestinians in a policy that amounts to forced population transfer.

Forced population transfer has been defined as the "systematic, coercive and deliberate ... movement of population into or out of an area ... with the effect or purpose of altering the demographic composition of a territory, particularly when that ideology or policy asserts the dominance of a certain group over another."[1]

Not limited to the occupied Palestinian territory, the Israeli system also targets Palestinians residing on the Israeli side of the 1949 Armistice Line (known as the Green Line) and millions of Palestinian refugees living in forced exile while promoting Jewish-Israeli settlement implantation to the expropriated land. As such, the Palestinians, wherever they reside, are collectively exposed to one system composed of institutionalized discrimination, prolonged military occupation, and colonization.

That structure discriminates against Palestinians in areas such as nationality, citizenship, denial of reparation (return, restitution and compensation), residency rights, and land ownership. This system originated in 1948 in order to dominate and dispossess all forcibly displaced Palestinians along with the 150,000 Palestinians who were able to remain within the "Green Line" and who became citizens of Israel. The occupation of the remaining part of Palestine by Israeli forces in 1967 subjected the Palestinians living within that territory to the same discriminatory system.[2]

The creation of a Jewish nation state in a land with a small Jewish minority could only be achieved by forcibly displacing the indigenous population and implanting Jewish settlers from abroad. Accordingly, the manifestation of Israel's ideology is forced population transfer. Forced population transfer has been defined as a practice or policy that has the purpose or effect of moving persons into or out of an area—either within or across an international border and it might be carried out en masse, or as "low-intensity transfers" affecting a population gradually or incrementally.

Forced population transfer is illegal and has constituted an international crime since the Allied Resolution on German War Crimes, adopted in 1942. The strongest and most recent codification of the crime is in the Rome Statute of the International Criminal Court, which clearly defines the forced transfer of population and implantation of settlers as war crimes.

Already, 66% of seven million Palestinians worldwide have been displaced by Israel's ongoing forced displacement policy.[3] Today, this population transfer is carried out by Israel in the form of its overall policy of "silent" transfer—not by mass deportations like in 1948 or 1967. This displacement is silent in the sense that Israel carries it out while trying to avoid international attention by displacing small numbers of people on a weekly basis.[4]

Palestinians struggle to acquire and retain their rights undermined by Israel's policy of forced transfer. Any attempts at resolving the conflict between Israel and the Palestinians requires addressing the imbalance of power and resulting rights-refusal with special attention to the most egregious and unaccounted practices: namely, the Israeli policy of forced transfer. Thus, a rights-based approach responds to the root causes of the conflict between Israel and the Palestinians while a humanitarian emergency aid approach addresses the outcomes of illegal Israeli practices rather than their implementation. In pursuit of a sustainable and just peace, a rights-based approach draws on international law and the principle of justice and equality for all. A human rights-based approach requires:

1. Recognition of rights, in particular the Palestinian people's right to self determination, the right of refugees and internally displaced persons to reparation (voluntary return, property restitution and compensations), the right to development (to freely dispose and enjoy the natural wealth and resources and cultural heritage) and the right to peace[5];

2. Addressing the root causes of the conflict: namely colonialism, institutionalized discrimination and prolonged military occupation. These are the dynamic foundations for a range of human rights violations, such as the denial of displaced people's right of return and reparation, land confiscation, settlement expansion, home demolitions, restrictions on freedom of movement and so forth;

3. Ensuring equal exercise of legal rights for all parties and redress for victims without discrimination and without violating the rights of or causing harm to other parties;

4. Setting the foundations for peaceful and cooperative relations between peoples, groups, individuals and states. Such a foundation will be an intrinsic component to a just peace and is essential for reconciliation, which in turn will be achieved through implementing transitional justice (both judicial and non-judicial) mechanisms, including criminal prosecution, reparations, institutional reforms and truth commissions.

The undersigned organizations urge the Human Rights Council to:

- Investigate Israel's policy of forced population transfer of the Palestinian people through direct and indirect means and practices, which possibly amount to international crimes (Art. 49 (1), Art. 147 of GCIV, Art. 85 of its additional protocol and Art. 7 of the Rome Statute);
- Study and address the root causes of the ongoing forced displacement of Palestinians by the state of Israel on both sides of the Green Line: inside Israel proper and the occupied Palestinian territory;
- Identify the parties responsible and liable for the ongoing practice of population transfer;
- Develop and implement effective mechanisms and measures in accordance with a human rights-based approach to bring the state of Israel into compliance with international law;
- Recommend practical steps to ensure that all Member States respect their erga omnes obligations and refrain from recognizing, transacting with and/or providing support to parties engaged in Israeli population transfer policies and denial of the Palestinian people's right to self-determination.[6]

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*The Occupied Palestine and Golan Heights Advocacy Initiative, Defence for Children International - Palestine Section, Alternative Information Center, Joint Advocacy Initiative, NGO(s) without consultative status, also share the views expressed in this statement.

[1] "The Human Rights Dimensions of Population Transfer including the Implantation of Settlers," Preliminary Report prepared by A.S. al-Khawasneh and R. Hatano, Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities, Forty-fifth Session, 2–27 August 1993, E/CN.4/Sub.2/1993/17, 6 July 1993, paras.15 and 17.
[2] See BADIL Resource Center, Israeli Land Grab and Forced Population Transfer of Palestinians (Bethlehem, Palestine, 2013).
[3] See BADIL Resource Center, Survey of Palestinian Refugees and Internally Displaced Persons, 2010–2012 (Bethlehem, Palestine, 2012)
[4] See Amjad Alqasis, "The Ongoing Nakba - The Continuous Forced Displacement of The Palestinian People," al-Majdal Quarterly Magazine of BADIL Resource Center, Issue no. 50 Autumn 2012.
[5] See "Report of the Human Rights Council Advisory Committee on the right of peoples to peace," A/HRC/20/31, 16 April 2012, at: http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/20/31&Lang=E.
[6] Tom Moerenhout, "The Obligation to Withhold from Trading in Order Not to Recognize and Assist Settlements and their Economic Activity in Occupied Territories," Journal of International Humanitarian Legal Studies, Vol. 3, No. 2 (2013), pp. –Joseph Schechla, "Implementing States' Obligations to Combat Population Transfer," al-Majdal No. 53 (summer 2013), 13–17, at: http://www.badil.org/en/al-majdal/item/1936-art4; "Follow-up to the report of the independent international fact-finding mission to

investigate the implications of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem", A/HRC/22/L.45, 19 March 2013, operational paragraph 1; "Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem," A/HRC/22/63, 7 February 2013, para. 17; Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory (Advisory Opinion) ICJ Rep 2004, para. 159; L. Boisson and L. Condorelli, "Common Article 1 of the Geneva Conventions Revisited: Protesting Collective Interests" International Review of the Red Cross, 837 (2000); General Assembly resolution "The situation in the Middle East," A/37/123, 16 December 1982, para. 16; Report of the Security Council Commission established under resolution 446 (1979), document S/14268, p. 47.